

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

ROBERT LEE DELOACH, #41182

PETITIONER

VS.

CIVIL ACTION NO.1:05CV0023GHD-JAD

LAWRENCE KELLY, ET AL.

RESPONDENTS

REPORT AND RECOMMENDATION

The petitioner filed a motion for default or summary judgment based upon the delays caused by the repeated requests for extension of time by the respondents (Doc 16). The court granted each request for extension of time. The respondents were never in default. The requests for extension of time likewise provide no basis for the granting of summary judgment in this action. The undersigned recommends that this motion be denied.

The parties are referred to 28 U.S.C. 636(b)(1) and Local Rule 72.2(D) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten days of this date. Failure to file written objections to the proposed finding and recommendations contained in this report within ten days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Petitioner is directed to acknowledge receipt of this report and recommendation by signing the enclosed acknowledgment form and returning it to the court within ten days of this date. Petitioner is warned that failure to comply with the requirements of this paragraph may lead to the

dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

This the 7<sup>th</sup> day of November, 2005.

/s/ JERRY A. DAVIS  
UNITED STATES MAGISTRATE JUDGE